

or referred to the Department of Justice, will be forwarded to Commander, USARCS. A claim file forwarded to higher authority will contain a memorandum of opinion supported by necessary exhibits.

(2) *Compromise.* (i) The authority delegated in paragraph (c) of this section to compromise claims will be exercised in accordance with standards set forth in 4 CFR 103. When available funds are insufficient to satisfy both the claim of the United States and that of the injured party, the claim of the United States will be compromised to the extent required to achieve an equitable apportionment of the available funds.

(ii) If appropriate, a request by the injured party or his attorney for waiver on the ground of undue hardship may be treated initially as a suggestion for compromise with the tortfeasor, and the compromised amount of the claim of the United States will be determined. In such cases, RJA's may make offers of compromise within their delegated authority. RJA's may also make counteroffers within their delegated authority to offers of compromise beyond their delegated authority. If settlement within the limits of delegated authority is not achieved, the claim will be referred to higher authority.

(iii) When time is a factor, SJA or major overseas command staff JA's may make telephonic delegation within their compromise authority on a case by case basis. When such verbal delegations are made, they will be confirmed in writing and the writing included in the case file.

(3) *Waiver.* (i) The authority delegated in paragraph (c) of this section to waive claims for the convenience of the Government will be exercised in accordance with standards set forth in 4 CFR part 103.

(ii) If the injured party or his attorney requests waiver of the full or any compromised amount of the claim on the ground of undue hardship, and the request may not be appropriately treated under paragraph (d)(2)(ii) of this section, the file will be forwarded to appropriate major overseas command claims authority or Commander, USARCS. For the purpose of evaluation of the request for waiver, the file

will include detailed information concerning the reasonable value of the injured party's claim for permanent injury, pain and suffering, decreasing earning power, and other items of special damages, pension rights, and other Government benefits accruing to the injured party; and the present and prospective assets, income, and obligations of the injured party, and those dependent on him.

(iii) In the event an affirmative determination is made by TJAG that, as a result of the collection of the Government's claim the injured party has suffered an undue hardship, the RJA will be authorized to direct issuance of the amount waived to the injured party.

(4) A file forwarded to higher authority for waiver of compromise consideration will contain a memorandum by the RJA giving his assessment of the case and his recommendation with regard to the approval or denial of the requested compromise or waiver.

(e) *Only the Department of Justice may approve claims involving.* (1) compromise or waiver of a claim asserted for more than \$40,000 exclusive of interest, penalties or administrative fees,

(2) Settlement actions previously referred to the Department,

(3) Settlement where a third party files suit against the United States on the injured party arising out of the same incident.

PART 538—MILITARY PAYMENT CERTIFICATES

Sec.

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AUTHORITY: Sec. 3, 58 Stat. 821, as amended; 31 U.S.C. 492c.

SOURCE: 44 FR 76784, Dec. 28, 1979, unless otherwise noted.

§ 538.1 Definitions.

(a) *United States dollar instruments.* For the purpose of this section, United States dollar instruments include the following:

(1) United States Treasury checks (standard dollar checks) drawn on the Treasurer of the United States by authorized finance and accounting officers.

(2) Travelers' checks issued by the American Express Company; Bank of America, National Trust and Savings Association; Mellon National Bank and Trust Company; Citibank of New York; Thomas Cook and Son (Bankers) Ltd.; and the First National Bank of Chicago, when expressed in United States dollars.

(3) United States military disbursing officers' payment orders.

(4) American Express Company money orders, when expressed in United States dollars, and United States postal money orders.

(5) Telegraphic money orders, when expressed in United States dollars.

(b) *Military Payment Certificate (MPC)*. The military payment certificate is an instrument, denominated in U.S. dollars and fractions thereof, that may be used as the official medium of exchange in U.S. military establishments located in overseas areas when such areas are designated as "Military Payment Certificate Areas."

(c) *Authorized Personnel*. As used herein, the term "authorized personnel" means all individuals authorized to purchase goods, supplies and services from U.S. Government sponsored and controlled facilities located and operated in an MPC area.

§ 538.2 Use of military payment certificates.

(a) *Areas in which used*. Military payment certificates are to be used only in the Department of Defense by authorized personnel in designated MPC areas. A Military Payment Certificate Area is a particular foreign country(s), or a specific area within a foreign country, that has been officially authorized for designation as an MPC area.

(b) *Disbursement of military payment certificates*. Military payment certificates will be disbursed to authorized personnel for all items of pay and allowances and for all other authorized payments to individuals in and under the Department of Defense.

(c) *Facilities in which used*. Military payment certificates are the only authorized medium of exchange in the following facilities:

(1) Army, Navy, and Air Force sales and services installations and activities.

(2) Theaters and other entertainment facilities operated by Department of Defense.

(3) Officers' and enlisted personnel messes and clubs, including American Red Cross installations.

(4) Army, Navy, and Air Force postal installations for purchase of postal money orders and stamps, and cashing of postal money orders.

(5) Contribution to all authorized charitable appeals, church collections, and chaplain's funds when remittance is to be forwarded to the United States through Department of Defense channels.

(6) Payments to all travel agencies, radio, cable, telegraph, and telephone companies, and all other similar facilities when remittance is to be forwarded to the United States through Department of Defense channels.

(7) All other official agencies, quasi-official and private agencies of or working in behalf of United States Army Forces providing goods, services, and facilities to members of the United States Armed Forces.

§ 538.3 Restrictions on possession and use.

(a) *Possession or use prohibited*. Possession or use of military payment certificates is prohibited unless acquired in accordance with §§ 538.1 through 538.4 and such additional regulations as may be issued by the major overseas commander concerned.

(b) *Not to violate directives*. Acquisition, possession, and use of military payment certificates incident to normal legitimate transactions within the Department of Defense must not violate Department of the Army or major overseas command directives or the Uniform Code of Military Justice.

(c) *Acceptance, transfer, or exchange*. Under no circumstances will military payment certificates be accepted from, transferred to, or exchanged for persons other than authorized personnel. Military payment certificates will not